

FEDERAL MARITIME COMMISSION

PETITION OF CROWLEY CARIBBEAN
SERVICES, LLC AND CROWLEY
LATIN AMERICA SERVICES, LLC FOR
AN EXEMPTION FROM 46 C.F.R. §
530.10

Petition No. P4-15

Served: January 12, 2016

**BY THE COMMISSION: Mario CORDERO, *Chairman*;
Rebecca F. DYE, Richard A. LIDINSKY, Jr., Michael A.
KHOURI, and William P. DOYLE, *Commissioners*.**

Order Granting Petition

I. Petition

On October 5, 2015, Crowley Caribbean Services, LLC and Crowley Latin America Services, LLC (together Crowley or Petitioner) filed with the Federal Maritime Commission (Commission) the above-captioned Petition for Exemption from 46 C.F.R. § 530.10, pursuant to the Commission's Rules of Practice and Procedure at 46 C.F.R. § 502.76. The Petition was published in the *Federal Register* on October 15, 2015, 80 Fed. Reg. 62,075, and the comment period closed on October 23, 2015. No comment was filed with the Commission.

It was anticipated that on or about October 31, 2015, Crowley, an ocean common carrier, would acquire the assets of Seafreight Line, Ltd. (Seafreight), also an ocean common carrier, whereby part of the assets acquired included an assignment of the approximately 500 Seafreight service contracts to Crowley. Petition at 1.

In the Petition, Crowley states that the assignment of Seafreight's service contracts to Crowley would require each contract to be amended and those amendments to be filed with the Commission. Petition at 1. Crowley believes that it would be an undue burden on Crowley and the shipper parties to its approximately 500 service contracts to prepare and file individual amendments to assign Crowley from Seafreight on all the service contracts prior to their termination in the normal course of business. Petition at 2.

Accordingly, Crowley requests that the Commission permit a universal notice to the Commission and to all affected service contract parties and an electronic notice to each shipper counterparty. Petition at 2.

Further, Crowley intends to republish the existing Seafreight tariffs under a new Organization Number to be issued to Crowley Caribbean Services, LLC and Crowley Latin America Services, LLC, each d/b/a Seafreight. Petition at 2. Crowley asserts that the new Organization Number would create a discrepancy between the tariff number identified by the existing Seafreight service contracts as governing tariffs and the new tariff numbers assigned to the Seafreight tariffs when they are republished as Crowley d/b/a Seafreight tariffs. To avoid the discrepancy, Crowley requests that the Commission permit a waiver from 46 C.F.R. § 530.10 and permit a notice to be inserted in the existing Seafreight tariffs and in the new Crowley d/b/a Seafreight tariffs. Petition at 3.

Crowley asserts that the above-referenced notices (and any formal consent required by a shipper) fully informs and protects all shipper counter-parties.

II. Discussion

The Commission's regulations provide that "[s]ervice contracts may be amended by mutual agreement of the parties to the contract." 46 C.F.R. § 530.10(b). Amendments to service contracts must be filed with the Commission in the same manner as a new service contract, which requires signing by the parties. 46 C.F.R. § 530.8(b). As Crowley claims, it appears that filing individual amendments for approximately 500 service contracts may be burdensome both to Crowley and the shippers.

Under 46 U.S.C. § 40103(a), the Commission may grant administrative exemptions from the Act "if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce." Crowley's Petition seeks an exemption from the filing requirement with respect to the administrative amendments necessitated by the acquisition of Seafreight's assets. Since the amendment is purely administrative, it is unlikely that the exemption will result in a substantial reduction in competition or be detrimental to commerce.

The Commission has previously granted exemptions from 46 C.F.R. § 530.10(b). *See Petition of Compañía Sud Americana de Vapores S.A.*, 33 S.R.R. 934 (FMC 2015); *Petition of Hanjin Shipping Co., Ltd.*, 31 S.R.R. 1080 (FMC 2009).

III. Conclusion

The Commission believes that the process requested by Crowley will adequately protect affected shippers and their rights. Crowley's suggested electronic notice to each affected shipper gives the shipper an option to file an individual amendment.

THEREFORE, IT IS ORDERED, that Crowley's Petition is GRANTED, provided that:

1. Upon granting of the Petition, Crowley notifies, in the form and manner set forth in the Petition, all affected shippers of the change in carrier parties to the service contracts;
2. As soon as practical, Crowley file a Universal Notice with the Commission through SERVCON, enumerating all affected service contracts;
3. Further, Crowley insert a Notice in the existing Seafreight tariffs and in the new Crowley d/b/a Seafreight tariffs, respectively, explaining the updated governing tariff numbers; and
4. If any affected shipper opts to file an individual amendment, such amendment shall be promptly filed pursuant to 46 C.F.R. § 530.10(b).

IT IS FURTHER ORDERED, that this proceeding is discontinued.

By the Commission.

Karen V. Gregory
Secretary